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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,196	08/21/2001	Yilin Zhao	CS11055	7718
20280 7590 03/06/2007 MOTOROLA INC 600 NORTH US HIGHWAY 45 ROOM AS437 LIBERTYVILLE, IL 60048-5343			EXAMINER ANWAH, OLISA	
			ART UNIT 2614	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 03/06/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/934,196

Applicant(s)

ZHAO, YILIN

Examiner

Olisa Anwah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 13, 15 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1, 2, 7-12, 14 and 16 are rejected under 35 U.S.C. § 102(e) as being anticipated by Moon, U.S. Patent No. 6,704,571 (hereinafter Moon).

Regarding claim 1, Moon discloses a method in a mobile wireless communication station (see unit 20 from Figure 1) operating in a first data rate mode (see step 60 from Figure 4) and a second data rate mode (see step 84 from Figure 4), comprising:

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predicting (see step 74 from Figure 4) when the mobile wireless communication station transitions between the first data rate mode and the second data rate mode; and

requesting (see step 76 from Figure 4) data from a network (see Figure 1) prior to transitioning between the first data rate mode and the second data rate mode.

Regarding claim 2, see steps 78 and 80 from Figure 4.

Regarding claim 7, Moon discloses a mobile wireless communication station (see unit 20 from Figure 1) that operates in a first data rate mode (see step 60 from Figure 4) and second data rate mode (see step 84 from Figure 4), comprising:

a transmitter

a processor coupled to the transmitter;

the processor for predicting (see step 74 from Figure 4) when the mobile wireless communication station transitions between the first data rate mode and the second data rate mode; and

the transmitter for transmitting (see step 76 from Figure 4) data before the mobile wireless communication station transitions between the first data rate mode and the second data rate mode.

Claim 8 is rejected for the same reasons as claim 2.

Regarding claim 9, see step 80 from Figure 4.

Regarding claim 10, see step 76 from Figure 4.

Regarding claim 11, see lines 35-40 of column 3.

Regarding claim 12, see lines 35-40 of column 3.

Regarding claim 14, see lines 35-40 of column 3.

Regarding claim 16, Moon discloses a method in a network (see Figure 1) that operates in a first data rate mode (see step 60 from Figure 4) and second data rate mode (see step 84 from Figure 4), comprising:

predicting (see step 74 from Figure 4) when a mobile wireless communication station transitions between the first data rate mode and the second data rate mode; and

transmitting (see steps 78 and 80 from Figure 4) data from the network prior to the mobile wireless communication station transitioning between a first data rate mode and a second data rate mode.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5 and 17-19 rejected under 35 U.S.C § 103(a) as being unpatentable over Moon in view of Streter, U.S. Patent No. 6,456,858 (hereinafter Streter).

On the issue of claim 3, Moon discloses requesting (see step 76 from Figure 4) the data from a cellular communication network. Moon does not explicitly teach the first data rate mode is digital and the second data rate mode is analog. All the same, Streter discloses this limitation (see lines 1-35 of column 2). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the technology of Moon with the dual mode phone on Streter. This modification would have improved the flexibility of Moon by employing any suitable wireless communication protocol as suggested by Moon (see lines 1-30 of column 3).

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As per claim 4, Moon discloses requesting the data from a satellite communication network (see lines 35-40 of column 3). Moon does not explicitly teach the first data rate mode is digital and the second data rate mode is analog. All the same, Streter discloses this limitation (see lines 1-35 of column 2). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the technology of Moon with the dual mode phone on Streter. This modification would have improved the flexibility of Moon by employing any suitable wireless communication protocol as suggested by Moon (see lines 1-30 of column 3).

Regarding claim 5, see lines 35-40 of column 3.

Regarding claim 17, Moon discloses transmitting data (see steps 78 and 80 from Figure 4) from a cellular communication network to the mobile wireless communication station before transitioning. Moon does not explicitly teach the first data rate mode is digital and the second data rate mode is analog. All the same, Streter discloses this limitation (see lines 1-35 of column 2). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the technology of Moon with the dual mode phone on

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Streter. This modification would have improved the flexibility of Moon by employing any suitable wireless communication protocol as suggested by Moon (see lines 1-30 of column 3).

As per claim 18, Moon discloses transmitting data from a satellite communication network (see lines 35-40 of column 3) to the mobile wireless communication before transitioning. Moon does not explicitly teach the first data rate mode is digital and the second data rate mode is analog. All the same, Streter discloses this limitation (see lines 1-35 of column 2). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the technology of Moon with the dual mode phone on Streter. This modification would have improved the flexibility of Moon by employing any suitable wireless communication protocol as suggested by Moon (see lines 1-30 of column 3).

Regarding claim 19, Moon discloses transmitting Global Positioning Satellite system data (see lines 35-40 of column 3) to the mobile wireless communication station before transitioning. Moon does not explicitly teach the first data rate mode is digital and the second data rate mode is analog. All the same, Streter discloses this limitation (see lines 1-35

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of column 2). As a result, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the technology of Moon with the dual mode phone on Streter. This modification would have improved the flexibility of Moon by employing any suitable wireless communication protocol as suggested by Moon (see lines 1-30 of column 3).

5. Claim 6 is rejected under 35 U.S.C § 103(a) as being unpatentable over Moon combined with Streter in further view of Kingdon et al, U.S. Patent Application Publication No. 2001/0014604 (hereinafter Kingdon).

As per claim 6, the combination of Moon and Streter does not teach requesting ephemeris data from the cellular communication network. All the same, Kingdon teaches this feature (see abstract). Hence, it would have been obvious to one of ordinary skill in the art to further modify the combination of Moon and Streter with the ephemeris data of Kingdon. This modification would have improved the system's convenience by determining the geographical position of the wireless communication station as suggested by Kingdon (see paragraph 0009).

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Allowable Subject Matter

6. Claims 13, 15 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant is absolutely correct. Moon does not mention that the first and second wireless links have different data rate modes. By the same token, the independent claims of the instant application do not claim that the first data rate mode and the second data rate mode have different data rates. Because each wireless link of Moon inherently has a data rate mode, Moon discloses the claimed first and second data rate modes. Additionally, because Moon transitions from a first wireless link to a second wireless link, Moon discloses the claimed limitation of transitioning between a first and second data rate mode.

Applicant also incorrectly argues that Moon does not request data prior to transitioning. Contrary to Applicant's allegations, Moon makes a request (see step 76 from Figure 4) and receives data (see acknowledgement from Figure 4) prior to transitioning (see step 84 from Figure 4) to a second data rate.

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Consequently, the Examiner cannot allow the claims as presently claimed.

Conclusion

8. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olisa Anwah whose telephone number is 571-272-7533. The examiner can normally be reached on Monday to Friday from 8.30 AM to 6 PM.

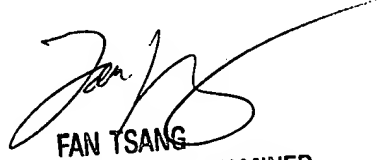
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

OA

Olisa Anwah
Patent Examiner
February 9, 2007


FAN TSANG
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